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Attorneys for Defendants
UNITED HEALTHCARE INSURANCE COMPANY
and UNITED BEHAVIORAL HEALTH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAVID AND NATASHA WIT, on behalf
of themselves and all others similarly
situated, and BRIAN MUIR, on his own
behalf and on behalf of all others similarly
situated,

Plaintiff,

v.

UNITED HEALTHCARE INSURANCE
COMPANY and UNITED BEHAVIORAL
HEALTH (operating as OPTUMHEALTH
BEHAVIORAL SOLUTIONS),

Defendant.

Case No. 3:14-CV-02346-JCS

**DECLARATION OF GERARD
NIEWENHOUS IN SUPPORT OF
MOTION OF DEFENDANTS UNITED
HEALTHCARE INSURANCE COMPANY
AND UNITED BEHAVIORAL HEALTH'S
MOTIONS TO TRANSFER VENUE
UNDER 28 U.S.C. § 1404(a)**

Date: September 26, 2014
Time: 2:00 P.M.
Judge: Hon. Joseph Spero
Courtroom: G

Action Filed: May 21, 2014

1 I, Gerard Niewenhous, MSW, ACSW, declare and state as follows:

2 1. I am employed by United Behavioral Health (“UBH”), and have worked at UBH
3 since 2003. I am the Senior Director of Clinical Policy and Standards for UBH and the Vice-
4 Chair and Committee Coordinator of the Behavioral Policy and Analytics Committee (“BPAC”).
5 I have personal knowledge of the facts stated herein, and if called as a witness, could and would
6 testify competently thereto.

7 2. In my capacity as Senior Director of Clinical Policy and Standards for UBH and as
8 the Vice-Chair and Committee Coordinator of the BPAC, I am responsible for overseeing and
9 administering the development and maintenance of the standards used for administering
10 behavioral health benefits, including what are known as Level of Care Guidelines (“LOCs”) and
11 Coverage Determination Guidelines (“CDGs”). I am also involved in plan-by-plan mental health
12 parity analysis. I am the head of the team responsible for the development of all of the LOCs and
13 CDGs that UBH has promulgated since 2003, and work with one other staff member, Loretta
14 Urban. I work in UBH’s Eden Prairie, Minnesota offices. Ms. Urban works remotely in Florida.

15 3. I have reviewed the “Class Action Complaint” filed on May 21, 2014 by David
16 and Natasha Wit and Brian Muir against United HealthCare Insurance Company and UBH (the
17 “Complaint”) and I am familiar with the LOCs and CDGs that are specifically identified in it. I
18 was responsible for the development, approval and finalization of all of the LOCs and CDGs
19 specifically identified in the Complaint that deal with mental health and/or substance use
20 disorders (*see, e.g.*, Paragraphs 10-17, 19-22, 26, 34, 36-38, 40, 53-63, and 81-83). The UBH
21 personnel who were responsible for developing those LOCs and CDGs are located outside of
22 California. It is my understanding that the guideline referenced in Paragraph 23 of the Complaint
23 is used to manage medical/surgical benefits, but it is not used by UBH to manage mental health or
24 substance use disorder benefits.

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1 I declare under penalty of perjury under the penalty of perjury that the foregoing is true
2 and correct.

3 Executed this 17th day of July, 2014, at 12:50, p.m.

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